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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/989,976

11/20/2001

Haviland Wright

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1715

25231 7590 04/20/2007
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EXAMINER

HARRINGTON, ALICIA M

ART UNIT

PAPER NUMBER

2873

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/989,976

Applicant(s)

WRIGHT ET AL.

Examiner

Alicia M. Harrington

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 and 40-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-34, 40 is/are allowed.
- 6) ☒ Claim(s) 41-46 and 48 is/are rejected.
- 7) ☒ Claim(s) 47, 49-51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>0107</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claim 1 is allowable. Claims 2-14,25-34 and 40-42 were previously withdrawn from consideration as a result of a restriction requirement, requires all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), **the restriction requirement among inventions species, as set forth in the Office action mailed on 12/14/04, is hereby withdrawn** and claims 2-14,25-34 and 40-42 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Information Disclosure Statement

2. The Examiner has considered the information disclosure statement filed on 1/29/07.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 41-46,48 are rejected under 35 U.S.C. 102(b) as being anticipated by Lebby et al (US 5,467,215).

Regarding claims 41-42, Lebby discloses a display device (see figures 3-5) comprising an image-generating arrangement configured to reproduce images, the images being visible to a viewer when the device is operated in either or both of two modes (see col. 9, lines 40-57 and col. 10, lines 1-10), including a first mode wherein the device produces a real image (via display screen 125) of the image-generating arrangement, and a mode wherein the device produces a virtual image (output of 117)-see col. 9-col. 10. As for claim 43, the virtual image is produced by the same image generating arrangement in the same portable device.

Regarding claims 44-45, see col. 9, lines 40-57 and col. 10, lines 1-10.

Regarding claims 46 and 48, see figures 4-5 and col. 10, lines 1-20.

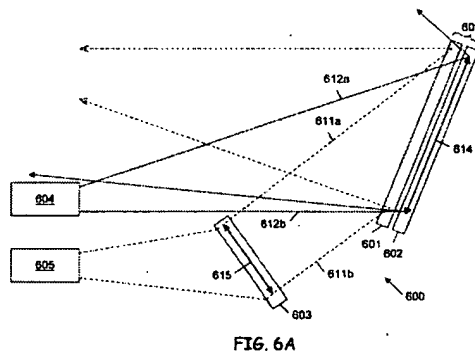
5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 41,43-44,48 rejected under 35 U.S.C. 102(a) as being anticipated by Popovich.

Popovich discloses (see figure 6A below), as in claims 41 and 43-44 and 48, a display device, comprising: an image-generating arrangement configured to reproduce images, the images being visible to a viewer when the device is operated in both of two modes, including a first mode wherein the device produces a real image (614) of the image-generating arrangement, and a mode wherein the device produces a virtual image (image at transmissive diffuser is then imaged/transformed via holographic mirror 601 to a virtual image- image not seen in the planes of the mirror-see page 26, lines 25-30 of Popovich) of the image-generating arrangement.



Popovich discloses an image screen (609, 614) upon which the real image of the image-generating arrangement appears when the device is operated in the first mode.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject

matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Popovich.

Popovich discloses the claimed invention; except for the limitation of a mode-selection arrangement includes a switch having at least two positions that allows an operator of the device to select the desired image-review mode, as in claim 45. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the optical device with a switch, which is well known and widely used, for the purpose of changing from one desired effect to another.

Allowable Subject Matter

9. Claims 1-34,40 are allowed.

10. Claims 47,49-51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is an examiner's statement of reasons for allowance: prior art fails to fairly suggest a display device comprising a reflective image generating arrangement configured to reproduce images including first and second modes wherein the light that forms the virtual image proceeds from the image generating arrangement to the viewer without being scattered by a diffusive screen as claimed in claim1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Harrington whose telephone number is 571 272 2330. The examiner can normally be reached on Monday - Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571 272 2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Alicia M Harrington
Primary Examiner
Art Unit 2873

amh